

PROPOSED RULE 1315 – NEW SOURCE REVIEW TRACKING SYSTEM

(a) Purpose

The purpose of this rule is to specify procedures to be followed by the Executive Officer to make annual demonstrations of equivalency to verify that specific provisions in the District's New Source Review (NSR) program related to sources that are either exempt from offsets or which obtain their offsets from the District's offset accounts meet in aggregate the federal nonattainment NSR offset requirements. The procedures specified in this rule are used by the Executive Officer to demonstrate that the sources which are subject to the federal NSR emission offset requirements and which obtain emission credits through allocations from District Rule 1309.1 – Priority Reserve or Rule 1309.2 – Offset Budget or which utilize the emission offset exemptions contained in Rule 1304 – Exemptions are fully offset by valid emission credits.

(b) Offset Accounts

(1) District Offset Accounts

The Executive Officer shall maintain a separate District offset account for each federal nonattainment air contaminant. The District offset accounts are established with valid credits effective October 1, 1990 for the air contaminants and with the initial account balances as listed in Table A. Any portions of the initial account balances identified in Table A remaining in the District offset accounts at the end of calendar year 2005 shall be removed from the District offset accounts by the Executive Officer and shall not be used for purposes of demonstrating equivalency between federal NSR offset requirements and the District's NSR program. Additional District offset accounts are to be established by the Executive Officer in the event that additional federal nonattainment air contaminants or their precursors become subject to federal nonattainment NSR offset requirements. If the United States Environmental Protection Agency (EPA) changes the District's attainment designation from nonattainment to attainment for a specific air contaminant the Executive Officer may discontinue tracking and reporting the associated District offset account for that air contaminant. The District's NSR program shall be considered equivalent to federal nonattainment NSR offset requirements for an air contaminant so long as the procedures specified in this rule are followed

and the balance in the District offset account for that contaminant remains positive.

TABLE A
Initial District Offset Account Balances

Air Contaminant	Initial Account Balance (tons per day)
Volatile Organic Compounds (VOC)	38.46
Nitrogen Oxides (NO _x)	23.92
Sulfur Oxides (SO _x)	8.04
Carbon Monoxide (CO)	8.45
Fine Particulate Matter (PM ₁₀)	2.67

(2) Tracking of Offset Account Debits

The Executive Officer shall track and debit from the District offset accounts the following types of offset allocations or exemptions provided from the District offset accounts for sources located at major polluting facilities and which are not exempt from the offset requirements of federal nonattainment NSR:

- (A) Emission offsets from the Priority Reserve pursuant to Rule 1309.1 – Priority Reserve;
- (B) Emission offsets from the Offset Budget pursuant to Rule 1309.2 – Offset Budget; and
- (C) Exemptions from the offset requirements of Rule 1303 – Requirements pursuant to Rule 1304 – Exemptions.

The applicable offset ratios for offsets tracked by the Executive Officer pursuant to this paragraph is 1.2-to-1.0 for extreme nonattainment air contaminants and their precursors and is 1.0-to-1.0 for all other nonattainment air contaminants.

(3) Tracking of Offset Account Credits

- (A) The Executive Officer shall track and credit the following types of emission reductions to the District offset accounts:
 - (i) Orphan shutdowns;
 - (ii) Orphan reductions;
 - (iii) ERCs provided as emission offsets for sources located at minor facilities;

- (iv) The difference between the quantity of ERCs provided for a source located at a major polluting facility at a 1.2-to-1.0 offset ratio pursuant to Rule 1303(b)(2)(A) and the quantity of ERCs required to offset the emission increases at a ratio of 1.0-to-1.0 for all non-attainment air contaminants except extreme nonattainment air contaminants and their precursors.
 - (v) The amount of emission reductions associated with a facility's NSR balance, Community Bank and Priority Reserve allocations, and offset exemptions which is subtracted from the emission reductions quantified pursuant to Rule 1306(c) as part of the Executive Officer's evaluation of an ERC banking application; and
 - (vi) The portion of all emission reductions quantified pursuant to Rule 1306(c) as part of the Executive Officer's evaluation of an ERC banking application which is subtracted from the emission credit prior to issuance of the banked ERC pursuant to Rule 1309(b)(4)(E). This clause applies only in cases where the Executive Officer demonstrates that the subtracted amount exceeds the discount that would be required by approved SIP rules and rules scheduled to be approved by the District in the following year's rule cycle.
- (B) The Executive Officer shall deposit emission reductions into the District offset accounts according to the following procedures:
- (i) From orphan sources tracked pursuant to subparagraphs (b)(3)(A) and (b)(3)(B) at eighty percent of the source's permitted emission levels; and
 - (ii) From ERCs tracked pursuant to subparagraphs (b)(3)(C), (b)(3)(D), (b)(3)(E), and (b)(3)(F).
- (C) The Executive Officer may choose not to track all potential sources of credits in each reporting period if the Executive Officer determines that sufficient credits remain in the District offset accounts to demonstrate equivalency in each reporting period.

(4) Surplus at the Time of Use

All credits deposited into the District offset accounts pursuant to subparagraph (b)(3)(A) excluding clause (b)(3)(A)(vi) shall be discounted by the Executive Officer to ensure that they remain surplus at the time of use. Such discounting shall be performed annually and shall be based on the percentage reduction in overall permitted emissions projected to be achieved as a result of implementation of control requirements that become effective during the year for each specific pollutant within the District.

(c) Equivalency Determinations

(1) Reporting Periods

The Executive Officer shall aggregate tracked offsets provided from the District offset accounts into the following reporting periods for purposes of making periodic determinations of equivalency:

- (A) October 1, 1990 through July 31, 1995;
- (B) Each of the consecutive twelve-month periods commencing with August 1995 through July 1996 and concluding with August 2003 through July 2004;
- (C) August 2004 through December 2005; and
- (D) Each calendar year commencing with 2006.

(2) Preliminary Determinations of Equivalency

Commencing with the August 2004 through December 2005 reporting period, the Executive Officer shall, no later than twelve months after the completion of the reporting period, complete a Preliminary Determination of Equivalency (PDE) with federal nonattainment NSR offset requirements. The Executive Officer shall report the PDE to the District's Governing Board and EPA no later than the second regularly-scheduled monthly Governing Board meeting after the completion deadline for the PDE. The PDE is a conservative assessment of available balances of credits without accounting for orphan and other credits which become available during the reporting period. As a result, each PDE shall include the debit accounting elements identified in paragraph (b)(2) and the running balances in the District offset accounts at the beginning and at the end of the subject reporting period.

(3) Final Determinations of Equivalency

Commencing with the August 2004 through December 2005 reporting period, the Executive Officer shall complete a Final Determination of Equivalency (FDE) with federal nonattainment NSR offset requirements for any account(s) for which the PDE did not demonstrate equivalence. The FDE for any such account(s) shall be completed no later than eighteen months after the completion of the subject reporting period. The Executive Officer shall report the FDE to the District's Governing Board and EPA no later than the second regularly-scheduled monthly Governing Board meeting after the completion deadline for the FDE for any account(s) for which the PDE did not demonstrate equivalence. Each FDE shall include both the debit and the credit accounting elements identified in paragraphs (b)(2) and (b)(3), respectively, and the running balances in the District offset accounts at the beginning and at the end of the subject reporting period. The Executive Officer shall report the credit accounting elements identified in paragraph (b)(3) for any account(s) for which the PDE did demonstrate equivalence either with the FDE for the same reporting period or with the PDE for the subsequent reporting period.

(4) Early FDE Subsuming PDE

In lieu of preparing both a PDE and an FDE for a single reporting period, the Executive Officer may opt to include the PDE in the FDE for the same reporting period. Such FDEs are subject to the same completion and reporting deadlines as are the PDEs which they subsume.

(d) Projections of the District Offset Account Balances

Each PDE and each FDE report the Executive Officer prepares and presents to the Governing Board and EPA shall also include projections of the District offset account balances at the end of each of the two subsequent reporting periods. The Executive Officer shall make the projections of the District offset account balances based upon the average of the total annual debits and the average of the total annual credits for the five reporting periods most recently included in a PDE or an FDE. Although these projections are to be reported with the results of the PDEs and FDEs, they are separate from the determinations of equivalency and do not constitute an element of the determinations of equivalency.

(e) Backstop Provisions

(1) Funding of the Priority Reserve

The Executive Officer shall discontinue funding the Priority Reserve for any air contaminant which the most recent FDE has demonstrated does not have a positive balance in its District offset account no later than the completion deadline for the FDE specified in paragraph (c)(3). If the most recent projections of the District offset account balances prepared pursuant to subdivision (d) in conjunction with a PDE or an FDE predict a shortfall for any air contaminant, the Executive Officer shall discontinue funding the Priority Reserve for that contaminant during the year which the shortfall is projected to exist. The Executive Officer may resume funding the Priority Reserve according to the following schedule:

- (A) In cases where the Executive Officer has discontinued funding the Priority Reserve due to an actual account shortfall demonstrated pursuant to paragraph (c)(3), the Executive Officer may resume funding the Priority Reserve upon completion of a PDE or an FDE demonstrating that the shortfall no longer exists.
- (B) In cases where the Executive Officer has discontinued funding the Priority Reserve due to an offset account shortfall projected pursuant to subdivision (d), the Executive Officer may resume funding the Priority Reserve upon either completing a PDE or an FDE pursuant to paragraphs (c)(2) or (c)(3), respectively, demonstrating that no actual shortfall exists for the reporting period in which the shortfall was projected to occur; or completing a new projection pursuant to subdivision (d) for the same reporting period demonstrating that the shortfall is no longer projected to occur.

(2) If an FDE demonstrates that a shortfall exists in any of the District offset accounts, the Executive Officer shall implement one or more of the following backstop provisions as needed to correct the shortfall:

- (A) Provide additional credits to the District offset account(s) which have a shortfall within six months of the FDE that demonstrated the shortfall. The Executive Officer may obtain such credits by purchasing them, by funding emission reduction projects using quantification protocols approved by EPA, application of BACT

- (federal LAER) in excess of federal requirements, or other credit sources approved by EPA; and/or
- (B) Suspend funding of the Offset Budget within 90 days of the FDE that demonstrated the shortfall, not to be resumed until equivalency has been reestablished; and/or
 - (C) Propose amendments to Rule 1304, Rule 1309.1, and/or Rule 1309.2 to eliminate certain offset exemptions or to eliminate certain sources' eligibility to receive offsets from the Priority Reserve or from the Offset Budget, respectively.